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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,491	02/20/2004	Jack P. Shidemantle	650271-132	2161
27805	7590	11/09/2005	EXAMINER	
THOMPSON HINE L.L.P. 2000 COURTHOUSE PLAZA , N.E. 10 WEST SECOND STREET DAYTON, OH 45402			JAGAN, MIRELLYS	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,491

Applicant(s)

SHIDEMANTLE ET AL.

Examiner

Mirellys Jagan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, 7, 11, 12, 14, 19, 23, 24, 26 and 29 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 and 34 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8-10, 13, 16, 17 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 15, 18, 27, 28 and 30-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8-10, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by the prior art disclosed in U.S. Patent 5,876,122 to Eryurek.

Eryurek discloses a prior art temperature probe comprising:

a temperature sensor (RTD) that provides a resistive output; and

a monitor interface comprising:

a microprocessor for determining a modified resistive output for the temperature sensor;

a means (output circuitry) for providing the modified resistive output to a monitor (instrumentation and control equipment); and

an input to the microprocessor from the sensor and an output from the microprocessor;

wherein the microprocessor is programmed to execute a correlative algorithm; the modified resistive output corresponds to the correlative output; and a resistive output from the

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sensor is input into an A/D converter, and the output from the converter is fed to the microprocessor (see column 1, lines 11-39).

3. Claims 1-3, 5, 8-10, 13, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,576,487 to Conover, Jr. et al [hereinafter Conover].

Conover discloses a temperature probe comprising:

a temperature sensor (74) that provides a resistive output; and

a monitor interface comprising:

a microprocessor (246) for determining a modified resistive output for the temperature sensor;

a means (FET 278) for providing the modified resistive output in response to a signal from the processor; and

an input to the microprocessor from the sensor, and an output from the microprocessor;

wherein the microprocessor is programmed to execute a correlative algorithm; the microprocessor converts the resistive output of the temperature sensor to a modified resistive output that can be displayed by a monitor (252); the modified resistive output corresponds to the correlative output; and a resistive output from the sensor is input into an A/D (264) converter, and the output from the converter is fed to the microprocessor (246) (see figure 3; column 12, lines 5-39).

Allowable Subject Matter

4. Claims 25 and 34 are allowed.
5. Claims 15, 18, 27, 30, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 28, 31, and 33 are allowable for being dependent on an allowable base claim.
7. The Examiner's statement of reasons for allowance and allowable subject matter is presented in the last Office action, dated 5/20/05.

Response to Arguments

8. Applicant's arguments regarding Eryurek and Conover have been fully considered but they are not persuasive. Applicant's arguments regarding the temperature sensor of Eryurek are not persuasive since the rejections are based on the prior art disclosed by Eryurek. Furthermore, Applicant's arguments regarding the temperature sensor of Conover are not since the features upon which applicant relies, i.e., the transistor modifying the input to the microprocessor, are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims (See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993)).

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9. Applicant's arguments with respect to Ishizaka have been fully considered and are persuasive. The rejections over Ishizaka have been withdrawn.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mirellys Jagan whose telephone number is 571-272-2247. The examiner can normally be reached on Monday-Friday from 11AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ
November 4, 2005



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800